

HOUSE BILL 2507  
By Clem

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29; Title 50, Chapter 9; Title 50, Chapter 6 and Title 56, Chapter 5, relative to advisory council on worker's compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-225(a), is amended by deleting item (6) in its entirety.

SECTION 2. Notwithstanding the provisions of Tennessee Code Annotated, Section 4-29-112, the Tennessee advisory council on worker's compensation shall terminate and cease all activities upon the effective date of this act.

SECTION 3. Tennessee Code Annotated, Section 50-6-121, is amended by deleting the section in its entirety and renumbering the remaining sections accordingly.

SECTION 4. Tennessee Code Annotated, Section 50-6-123(e), is amended by deleting the last sentence in its entirety.

SECTION 5. Tennessee Code Annotated, Section 50-6-124(f), is amended by deleting the subsection in its entirety and substituting instead the following:

(f) The commissioner is directed to review the role of chiropractic and physical therapy services in workers' compensation costs and to determine whether such services should be included in the utilization review system established pursuant to this section. In such review, the commissioner shall consult with the medical care and cost containment committee. The commissioner shall conclude such review by January 1, 1997, and report to the special joint committee on workers' compensation. If the review determines that chiropractic or physical therapy services merit inclusion in the utilization review system, the commissioner shall include such services by rule in the system.

SECTION 6. Tennessee Code Annotated, Section 50-6-132, is amended by deleting the section in its entirety and substituting instead the following:

No later than December 31 of each year, the division of workers' compensation shall produce a report that includes a listing of the name of each covered employer that failed, during the preceding state fiscal year, to provide workers' compensation coverage or qualify as a self-insured employer as required by law. Only those employers whose failure resulted in periods of non-coverage shall be included within the report. Such report shall also include the penalty assessed by the division and the payment status of such penalty. The report shall be provided to the oversight committee on workers' compensation, and the chair, of the senate commerce, labor and agriculture committee, and the house consumer and employee affairs committee.

SECTION 7. Tennessee Code Annotated, Section 50-6-244(a), is amended by deleting the subsection in its entirety and substituting instead the following:

(a) The department shall develop a statistical data form for collecting data relevant to assessing the workers' compensation system. In developing or altering the form, the department shall seek written comment from the administrative office of the courts. The commissioner shall submit the proposed form to the special joint committee on workers' compensation, together with any written comments of the administrative office of the courts, prior to submission of a proposed rule to the attorney general and reporter. The initial rule shall be submitted to the committee prior to October 1, 1998. The commissioner shall promulgate the form by rule pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, on or before October 31, 1998.

SECTION 8. Tennessee Code Annotated, Section 50-6-402, is amended by deleting the section in its entirety and substituting instead the following:

(a) In determining classifications of risks and premiums relating thereto, the insurer may include allowances of any character made to any employee, only

when such allowances are in lieu of wages, and are specified as part of the wage contract.

(b) Upon receiving any workers' compensation loss cost filing made by the designated rate service organization pursuant to this part or title 56, the commissioner of commerce and insurance shall approve, disapprove, or modify the filing within ninety (90) days of receiving the filing. If the commissioner of commerce and insurance modifies the filing, such modification shall be within the range established by the recommendation of the rate service organization in its filing. In instances when the commissioner of commerce and insurance modifies the filing, the rate service organization shall develop a plan that reflects the commissioner's modification, unless the organization appeals the modification pursuant to § 56-5-308. The commissioner shall report the action taken on any such filing to the special joint committee on workers' compensation and to the speakers of the senate and the house of representatives.

SECTION 9. Tennessee Code Annotated, Section 50-6-415, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) The commissioner of labor and workforce development has the same authority as the commissioner of commerce and insurance to request and obtain relevant information on workers' compensation claims. All workers' compensation insurers or their designated agents, self-insurers and the department of commerce and insurance shall report claims information and other relevant workers' compensation data necessary to determine and analyze costs of the system to the commissioner of labor and workforce development or to such agents as the commissioner may designate. The commissioner may promulgate all reasonable rules and regulations necessary to implement the provisions of this section in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(2) In promulgating rules concerning data collection, the commissioner of labor and workforce development shall include appropriate elements of the Detailed Claim Information Reporting Model Regulation for Workers' Compensation Insurance issued by the National Association of Insurance Commissioners, and such other information as the commissioner deems necessary. The commissioner shall also report to the special joint committee on workers' compensation at the request of the chair of the committee.

(b) The division of workers' compensation shall gather, and has the duty to analyze and report, information relevant to the functioning of the workers' compensation system to the general assembly and the governor. The division shall respond to information requests concerning workers' compensation issues from the general assembly and the governor.

(c) The commissioner of labor and workforce development shall enforce requests pursuant to this section in the same manner and with the same authority as the commissioner of commerce and insurance possesses with respect to violations of this part and title 56. The commissioner shall also notify the principal corporate office of any insurer of any refusal to comply with such requests. The commissioner's enforcement authority under this subsection applies only to the commissioner's efforts to obtain relevant data as provided in subsections (a) and (b).

SECTION 10. Tennessee Code Annotated, Section 50-6-419(d), is amended by deleting the subsection in its entirety and substituting instead the following:

(d) The commissioner shall also provide the special joint committee on workers' compensation with the proposed rules for comment.

SECTION 11. Tennessee Code Annotated, Section 50-9-103(16), is amended by deleting the definition in its entirety and substituting instead the following:

(16) "Safety-sensitive position" means a position involving a safety-sensitive function pursuant to regulations governing drug or alcohol testing

adopted by the United States department of transportation. For drug-free workplaces, the commissioner is authorized to promulgate rules expanding the scope of safety-sensitive position to cases where impairment may present a clear and present risk to co-workers or other persons. "Safety-sensitive position" means, with respect to any employer, a position in which a drug or alcohol impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; or a position in which a momentary lapse in attention could result in injury or death to another person; and

SECTION 12. Tennessee Code Annotated, Section 56-5-314(c)(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

(3) No later than July 1 of each year, the commissioner shall determine whether the membership of the assigned risk pool, created pursuant to § 56-5-314(c), for the prior calendar year exceeds fifteen percent (15%) of the membership of the eligible employer market, as based on premium, excluding self-insured employers and self-insured groups. For any period in which it is determined the membership of the assigned risk pool exceeds fifteen percent (15%) of the membership of the eligible employer market, the commissioner shall issue a report setting forth the percentage of the eligible employer market insured through the assigned risk pool and the reasons contributing to increased membership of the pool. The report shall include recommendations as to whether:

(A) The competitive state workers' compensation insurance fund, established by title 50, chapter 6, part 6, should be activated;

(B) A plan of direct assignment on a randomized basis of all assigned risk plan policies to insurers offering workers' compensation insurance subject to subdivision (c)(4) should be implemented;

(C) Other actions should be taken; or

(D) No action should be taken.

The commissioner shall take such action as deemed appropriate; provided, that the commissioner shall hold a hearing before electing to activate the competitive state workers' compensation insurance fund or to institute a plan of direct assignment.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it